

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

<p>DONALD PORTER, Derivatively on Behalf of GMX RESOURCES INC.,</p> <p>Plaintiff,</p> <p>v.</p> <p>KEN L. KENWORTHY, <i>et al.</i>,</p> <p>Defendants,</p> <p>and</p> <p>GMX RESOURCES INC.,</p> <p>Nominal Defendant.</p>	<p>Case No. CIV-11-890-D</p>
<p>RONALD ZERR, Derivatively on Behalf of GMX RESOURCES,</p> <p>Plaintiff,</p> <p>v.</p> <p>KEN KENWORTHY, <i>et al.</i>,</p> <p>Defendants,</p> <p>and</p> <p>GMX RESOURCES,</p> <p>Nominal Defendant.</p>	<p>Case No. CIV-12-313-D</p>

**STIPULATION AND [PROPOSED] ORDER
ACCEPTING SERVICE, CONSOLIDATING RELATED ACTIONS,
APPOINTING CO-LEAD COUNSEL, AND SETTING SCHEDULE**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

IT IS HEREBY STIPULATED AND AGREED, by and among the parties listed below, by
their undersigned counsel as follows:

1. There are presently pending in this Court the following derivative actions on behalf of GMX Resources Inc.: *Porter v. Kenworthy, et al.*, CIV-11-890-D (W.D. Okla.; filed August 5, 2011) (the “Porter Derivative Action”) and *Zerr v. Kenworthy, et al.*, CIV-12-313-D (W.D. Okla.; filed March 22, 2012) (the “Zerr Derivative Action” and collectively with the Porter Derivative Action, the “Derivative Actions”).

2. By Order of this Court dated December 14, 2011, the Porter Derivative Action was temporarily stayed pending the ruling on the motions to dismiss filed in the related securities action before this Court, *Northumberland County Retirement System, et al. v. GMX Resources Inc., et al.*, CIV-11-520-D (the “Securities Action”).

3. Crowe & Dunlevy and Schiffer Odom Hicks & Johnson PLLC hereby appears in the Derivative Actions on behalf of defendants Ken L. Kenworthy, Jr., Michael J. Rohledder, James A. Merrill, Tom Boismier, Steven Craig, Jon W. McHugh and Ken L. Kenworthy, Sr. (hereinafter, the “Individual Defendants”). Crowe & Dunlevy and Schiffer Odom Hicks & Johnson PLLC agree to, and hereby do, accept service of process in the Derivative Actions on behalf of the Individual Defendants, without prejudice to any defenses except sufficiency of service of process.

4. Fellers Snider Blankenship Bailey & Tippens, P.C. hereby appears in the Derivative Actions on behalf of nominal defendant GMX Resources Inc. (hereinafter, “GMX Resources” and, collectively with the Individual Defendants, “Defendants”). Fellers Snider Blankenship Bailey & Tippens, P.C. agrees to, and hereby does, accept service of process in the Derivative Actions on behalf of GMX Resources, without prejudice to any defenses except sufficiency of service of process.

5. The Derivative Actions are brought against certain officers and directors of GMX Resources and involve the same subject matter, substantially the same defendants, and common questions of law and fact and are pending before this Court.

6. In an effort to further assure consistent rulings and decisions and the avoidance of unnecessary duplication of effort, the undersigned counsel for plaintiffs and counsel for Defendants in the Derivative Actions enter into this stipulation. The counsel are: (1) Derryberry & Naifeh, LLP, Robbins Umeda LLP and Goldfarb Branham LLP on behalf of plaintiff Donald Porter; (2) Strong, Martin & Associates, PLLC and Kahn Swick & Foti, LLC on behalf of plaintiff Ronald Zerr; (3) Crowe & Dunlevy and Schiffer Odom Hicks& Johnson PLLC on behalf of the Individual Defendants; and (4) Fellers Snider Blankenship Bailey & Tippens, P.C. on behalf of nominal defendant GMX Resources.

7. The Derivative Actions are related actions that, in the interests of justice and efficiency, should be consolidated for all purposes, including pretrial proceedings and trial, pursuant to Federal Rule of Civil Procedure 42(a). Subject to the approval of the Court, the Derivative Actions shall be consolidated (hereinafter, the “Consolidated Derivative Action”).

8. All papers and documents previously served and filed in the Derivative Actions consolidated herein are deemed a part of the record in the Consolidated Derivative Action. Subject to approval of the Court, the parties agree that every pleading filed in this Consolidated Derivative Action, or in any separate action included herein, must bear the following caption:

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

IN RE GMX RESOURCES INC.)	Lead Case No. CIV-11-890-D
SHAREHOLDER)	
DERIVATIVE LITIGATION)	
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)	
This Document Relates To:)	
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ALL DERIVATIVE ACTIONS)	
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9. When a pleading or other court paper filed in the Consolidated Derivative Action is intended to apply to all derivative actions therein, the words "All Derivative Actions" shall appear immediately under the words "THIS DOCUMENT RELATES TO:" in the caption set forth above. When a pleading or other court paper is intended to be applicable only to one, or some, but not all of such actions, the party filing the document shall indicate the action(s) to which the document is intended to be applicable by last name of the named plaintiff(s) and the docket number(s).

10. The files of these consolidated actions shall be maintained in one file under Lead Case No. CIV-11-890-D.

11. The parties agree that it would be duplicative and wasteful of the Court's resources for Defendants named in the Derivative Actions to have to respond to the complaints filed in the Derivative Actions. Therefore, the parties agree that, pending the filing of a Consolidated Derivative Complaint, Defendants need not respond to the complaints filed in the Derivative Actions or to any other related derivative complaints that are subsequently assigned, remanded, or transferred to this Court.

12. The parties further agree that, in accordance with the stay previously entered in the Porter Derivative Action, a stay of the Consolidated Derivative Action is appropriate in that it will avoid inefficiencies and duplicative efforts, will better preserve the resources of the Court and the

parties, and will more closely align the proceedings in the Consolidated Derivative Action with the proceedings in the Securities Action. The proceedings in the Consolidated Derivative Action shall be temporarily stayed pending the ruling on the motions to dismiss filed in the Securities Action; the stay shall remain in effect until 21 days following the filing of the Court's Order(s) ruling on those motions.

13. This agreement is without prejudice to Defendants' right to move to stay or transfer the Consolidated Derivative Action before their answer in the Consolidated Derivative Action becomes due.

14. The parties have agreed that during the period of the stay, Plaintiffs will be entitled to receive any discovery produced by Defendants in the Securities Action, whether formally or informally, and Plaintiffs will be allowed to participate in any mediation that takes place while the action is stayed.

15. Plaintiffs will have forty-five (45) days from the filing of the Court's Order(s) ruling on the motions to dismiss filed in the Securities Action to file a Consolidated Derivative Complaint or, in the alternative, designate the complaint filed in either the Porter Derivative Action or the Zerr Derivative Action as the Operative Complaint. Defendants will answer, move against, or otherwise respond to the Consolidated Derivative Complaint or the Operative Complaint, as the case may be, within sixty (60) days after Plaintiffs file a Consolidated Derivative Complaint or designate an Operative Complaint.

16. In the event that Defendants file and serve any motions directed at the Consolidated Derivative Complaint or the Operative Complaint, as the case may be, Plaintiffs shall file and serve their opposition within sixty (60) days after service of Defendants' motion. If Defendants file and

serve a reply to Plaintiffs' opposition, they will do so within thirty (30) days after Plaintiffs' service of the opposition. Counsel agrees to confer to select a hearing date.

17. Subject to approval of the Court, the parties agree that Co-Lead Counsel for Plaintiffs for the conduct of this Consolidated Derivative Action are:

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18. Subject to approval of the Court, the parties agree that Oklahoma Co-Liaison Counsel for Plaintiffs for the conduct of this Consolidated Derivative Action is:

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19. Subject to approval of the Court, the parties agree that Plaintiffs' Co-Lead Counsel shall have authority to speak for Plaintiffs in all matters regarding pretrial procedure, trial, and settlement negotiations and shall make all work assignments in such manner as to facilitate the orderly and efficient prosecution of this litigation and to avoid duplicative or unproductive effort.

20. Subject to approval of the Court, the parties agree that Plaintiffs' Co-Lead Counsel shall be responsible for coordinating all activities and appearances on behalf of Plaintiffs and for the dissemination of notices and orders of the Court. The parties agree that no motion, request for discovery, or other pretrial or trial proceedings will be initiated or filed by any Plaintiff except through Plaintiffs' Co-Lead Counsel.

21. Subject to approval of the Court, the parties agree that Defendants' counsel may rely upon all agreements made with any of Plaintiffs' Co-Lead Counsel, or any duly authorized representative of Plaintiffs' Co-Lead Counsel, and such agreements will be binding on all Plaintiffs.

22. The parties agree that this Order shall apply to each shareholder derivative action arising out of the same or substantially the same transactions or events as the Derivative Actions, which is subsequently filed in, removed to, or transferred to this Court.

23. The parties agree that when a shareholder derivative case which properly belongs as part of the *In re GMX Resources Inc. Shareholder Derivative Litigation*, Lead Case No. CIV-11-890-D is hereafter filed in this Court or transferred here from another court, counsel will call to the

attention of the Clerk of the Court the filing or transfer of any such case that might properly be consolidated as part of the *In re GMX Resources Inc. Shareholder Derivative Litigation*, Lead Case No. CIV-11-890-D, and counsel are to assist in assuring that counsel in subsequent actions receive notice of this Order.

24. The consolidation of these actions is for the procedural and administrative convenience of the Court and the parties, and does not constitute a waiver or compromise of any rights the parties would otherwise have.

Dated: April 19, 2012

Respectfully submitted,

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Attorneys for Nominal Defendant GMX Resources Inc.

* * *

ORDER

The above stipulation having been considered, and good cause appearing therefore,
IT IS SO ORDERED:

Dated: _____

HONORABLE TIMOTHY D. DEGIUSTI